

IN THE SENATE

SENATE BILL NO. 1206

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2004, IDAHO CODE, TO DEFINE A TERM, TO REVISE DEFINITIONS AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 54-2022, IDAHO CODE, TO REMOVE REFERENCES TO EQUIVALENT IN AVAILABLE CORRESPONDENCE HOURS; AMENDING SECTION 54-2023, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTION 54-2025, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-2026, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTIFICATION OF COURSE PROVIDERS; AMENDING SECTION 54-2028, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A TERM OF PROVIDER CERTIFICATION AND RENEWAL; AND AMENDING SECTION 54-2059, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXPENDITURE OF CERTAIN CIVIL PENALTIES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2004, Idaho Code, be, and the same is hereby amended to read as follows:

54-2004. DEFINITIONS. As used in this chapter:

(1) "Accredited college or university" means an institution accredited by the regional accrediting associations, as reported in the most current publication of the accredited institutions of postsecondary education.

(2) "Acting in this state" means and includes dealing with any interest in real property, or a business opportunity involving an interest in real property, that is situated in the state of Idaho, or conducting or attempting to conduct or solicit real estate business with residents of the state of Idaho.

(3) "Active license" means the status of a real estate license that has not been inactivated, expired, terminated, suspended or revoked.

(4) "Associate broker" means an individual who has qualified personally as a real estate broker in Idaho under this chapter, but is licensed under, associated with and represents a designated broker in the performance of any act described in subsection (356) of this section.

(5) "Branch office" means an office operated by a licensed real estate broker or licensed legal business entity, separate and apart from the main office. A branch office may be licensed or unlicensed, in accordance with this chapter.

(6) "Broker price opinion" means a written price opinion of the estimated price for identified real property prepared or rendered by an actively licensed broker or associate broker, for a purpose other than a prospective listing or sale, and that complies or purports to comply with the requirements and content provision of section 54-4105, Idaho Code.

(7) "Brokerage company" means a real estate business, whether a sole proprietorship, a legal entity, or any other licensed person engaged in acts

1 requiring a real estate license in Idaho, and which is conducting or hold-  
 2 ing itself out as conducting the business of real estate through a designated  
 3 broker.

4 (8) "Brokerage representation agreement" means a written contract be-  
 5 tween a buyer, seller, or both, and a real estate brokerage for agency repre-  
 6 sentation in a regulated real estate transaction.

7 (9) "Business conduct and office operations course" means, ~~in refer-~~  
 8 ~~ence to a real estate course offering,~~ the component of the advanced real  
 9 estate course that is required in order to obtain a broker license and that  
 10 teaches business practices and office operations of the brokerage, includ-  
 11 ing recordkeeping, trust account procedures and the laws governing those  
 12 practices.

13 (10) "Business day" means and includes each day of the week except Sat-  
 14 urday, Sunday or any other legal holiday enumerated in section 73-108, Idaho  
 15 Code.

16 (11) "Business name" means the name in which the brokerage company is  
 17 licensed by the commission.

18 (12) "Business opportunity" means and includes an established busi-  
 19 ness, good will of an established business, or any interest therein, or any  
 20 one (1) or combination thereof, where a sale or transfer of an interest in  
 21 land including, but not limited to, an assignment of a lease, is involved in  
 22 the transaction.

23 (13) "Commission" means the Idaho real estate commission, unless the  
 24 context clearly indicates a different meaning.

25 (14) "Commission core course" means, ~~in reference to a real estate the~~  
 26 annual course offering, the course containing covering the twelve (12) month  
 27 period between July 1 and June 30, which contains curriculum, identified  
 28 by the commission, that stresses ~~current~~ that year's trends in real estate  
 29 practices and changes in laws in real estate related industries. A core  
 30 course must contain no more than four (4) classroom hours of instruction.

31 (15) "Continuing education elective course" means a real estate course  
 32 offering, other than the commission core course for which continuing educa-  
 33 tion credit hours may be obtained as provided in section 54-2023, Idaho Code.

34 (16) "Convicted" means a plea of nolo contendere or guilty, a jury ver-  
 35 dict of guilty or a court decision of guilt whether or not a judgment or sen-  
 36 tence has been imposed, withheld or suspended.

37 (17) "Cooperative sale" means a transaction involving two (2) or more  
 38 brokers.

39 (18) "Council" means the Idaho real estate education council.

40 (19) "Dealer in options" means any person, firm, partnership, associ-  
 41 ation or corporation who shall directly or indirectly take, obtain or use  
 42 options to purchase, exchange, lease option or lease purchase real property  
 43 or any interest therein for another or others whether or not the options  
 44 shall be in his or its name and whether or not title to the property shall pass  
 45 through the name of the person, firm, partnership, association or corpora-  
 46 tion in connection with the purchase, sale, exchange, lease option or lease  
 47 purchase of the real property, or interest therein.

48 (20) "Designated broker" means an individual who is licensed as a real  
 49 estate broker in Idaho and who is designated by the brokerage company to be

1 responsible for the supervision of the brokerage company and the activities  
2 of any associated licensees in accordance with this chapter.

3 (21) "Distance learning course" means, in relation to a real estate  
4 course offering, a real estate course that is delivered, not as a live  
5 course, but through a medium in which the instructor and student are sepa-  
6 rated by both distance and time.

7 (22) "Double contract" means two (2) or more written or unwritten con-  
8 tracts of sale, purchase and sale agreements, loan applications, or any  
9 other agreements, one (1) of which is not made known to the prospective loan  
10 underwriter or the loan guarantor, to enable the buyer to obtain a larger  
11 loan than the true sales price would allow, or to enable the buyer to qual-  
12 ify for a loan which he or she otherwise could not obtain. An agreement or  
13 loan application is not made known unless it is disclosed in writing to the  
14 prospective loan underwriter or loan guarantor.

15 (23) "Executive director" means the executive director of the Idaho  
16 real estate commission.

17 (24) "Expired license" means the status of a license when the license  
18 period has expired and the license is not renewed or provisional license  
19 granted, and before the license is terminated.

20 (25) "Fee or commission" means a payment, actual, promised or expected,  
21 as compensation for the performance of any act requiring a real estate li-  
22 cense.

23 (26) "Inactive license" means the status of a license that is not ex-  
24 pired, terminated, suspended or revoked, and during which inactive period  
25 the license holder is not authorized to act as or associate with a designated  
26 broker.

27 (27) "Legal business entity" means and includes any type of corpora-  
28 tion, partnership, limited liability company or limited liability partner-  
29 ship, a governmental entity, trust or other entity capable of conducting  
30 business.

31 (28) "Licensee" means any person who is licensed in accordance with this  
32 chapter to engage in the business or act in the capacity of real estate bro-  
33 ker, associate broker or real estate salesperson.

34 (29) "Limited broker" means a broker individually qualified to do busi-  
35 ness in Idaho, but who may not have associate brokers or salespersons li-  
36 censed with that broker.

37 (30) "Live presentation" means, in reference to a real estate course of-  
38 fering, a real estate course that is personally presented by the instructor  
39 and personally attended by the student at the same facility, or, if separated  
40 by distance, the instructor and student are connected by contemporaneous,  
41 two-way audio and visual communication.

42 (31) "Main office" means the principal location where the real estate  
43 broker is licensed to transact business.

44 (32) "Person" means and includes an individual, or any legal business  
45 entity.

46 (33) "Post license course" means a commission-approved or certified  
47 elective course that is specifically oriented toward salespersons in their  
48 first two (2) years of Idaho practice. The course must contain no more than  
49 twelve (12) classroom hours of instruction.

1       (34) "Primary Idaho license" means an Idaho real estate license that is  
2 not contingent upon continuance of a license in another state or jurisdic-  
3 tion.

4       (345) "Provisional license" means an extension of the period of active  
5 licensure, beyond the licensee's expiration date, granted by the commission  
6 for the purpose of allowing the licensee to complete the continuing educa-  
7 tion requirements set forth in section 54-2023, Idaho Code, or for any other  
8 purpose allowed by this chapter.

9       (356) "Real estate broker" means and includes:

10       (a) Any person other than a real estate salesperson, who, directly or  
11 indirectly, while acting for another, for compensation or a promise or  
12 an expectation thereof, engages in any of the following: sells, lists,  
13 buys, or negotiates, or offers to sell, list, buy or negotiate the pur-  
14 chase, sale, option or exchange of real estate or any interest therein  
15 or business opportunity or interest therein for others;

16       (b) Any actively licensed broker while, directly or indirectly, acting  
17 on the broker's own behalf;

18       (c) Any person who represents to the public that the person is engaged  
19 in any of the above activities;

20       (d) Any person who directly or indirectly engages in, directs, or takes  
21 any part in the procuring of prospects, or in the negotiating or closing  
22 of any transaction which does or is calculated to result in any of the  
23 acts above set forth;

24       (e) A dealer in options as defined in this section.

25       (367) "Real estate salesperson" or "salesperson" means any person who  
26 has qualified and is licensed as a real estate salesperson in Idaho under  
27 this chapter, and is licensed under, associated with, and represents a des-  
28 ignated broker in the performance of any act described in subsection (356) of  
29 this section.

30       (378) "Real estate settlement procedures act" means the real estate  
31 settlement procedures act of 1974, as amended, 12 U.S.C. section 2601 et  
32 seq., and as in effect on January 1, 2008.

33       (389) "Regulated real estate transaction" means those real estate  
34 transactions for which a real estate license is required under chapter 20,  
35 title 54, Idaho Code.

36       (3940) "Responsible broker" means the designated broker in the reg-  
37 ulated real estate transaction who is responsible for the accounting and  
38 transaction files for the transaction, in the manner described in section  
39 54-2048, Idaho Code.

40       (401) "Revoked license" means a license that has been permanently re-  
41 voked by the issuing authority.

42       (412) "Sales associate" means a salesperson or an associate broker li-  
43 censed under and associated with a designated broker.

44       (423) "State or jurisdiction" means and includes any ~~of the fifty (50)~~  
45 ~~states or territory of the United States, the District of Columbia and any~~  
46 ~~foreign jurisdiction country that issues~~ real estate licenses substantially  
47 similar to those provided for in this chapter.

48       (434) "Successfully completed" means, in reference to a real estate  
49 course offering, completing all required course hours and, except where the  
50 licensee seeks continuing education credit for having regularly attended

1 the live presentation of a course, passing a commission-approved final exam-  
2 ination.

3 (445) "Surrendered license" means a license that has been voluntarily  
4 terminated or surrendered by a licensee who, at the time of the voluntary  
5 termination or surrender, was under investigation or named in a formal ad-  
6 ministrative complaint.

7 (456) "Suspended license" means a license that has been temporarily  
8 suspended by the issuing authority.

9 SECTION 2. That Section 54-2022, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 54-2022. REAL ESTATE EDUCATION -- PRELICENSE REQUIREMENTS. (1) Except  
12 as provided in section 54-2015, Idaho Code, an applicant seeking a primary  
13 Idaho license as a real estate salesperson, broker or associate broker shall  
14 furnish satisfactory proof to the commission that the applicant has success-  
15 fully completed current commission-approved and accredited courses of real  
16 estate study as follows:

17 (a) Salesperson's license. For a salesperson's license, the applicant  
18 shall complete a total of ninety (90) classroom hours ~~or the equivalent~~  
19 ~~in available correspondence hours;~~

20 (b) Broker's or associate broker's license. Applicants seeking a bro-  
21 ker's or associate broker's license shall, in addition to meeting the  
22 requirements for a salesperson's license, successfully complete four  
23 (4) specified courses in advanced real estate study, for a minimum of  
24 ninety (90) additional classroom hours, ~~or the equivalent in available~~  
25 ~~correspondence hours.~~

26 (2) Each applicant shall successfully complete all prelicense real es-  
27 tate courses within no more than three (3) years prior to the date of the  
28 license application. However, upon written request for special considera-  
29 tion by the license applicant, the commission may waive or modify the three-  
30 year requirement at its discretion, based on the applicant's experience or  
31 additional education. Each waiver request shall be submitted with a cur-  
32 rent certified license history from Idaho or the applicant's other licensing  
33 jurisdiction, which history shall indicate all disciplinary actions taken  
34 against the applicant's license and the status and standing of such license  
35 in such licensing state or jurisdiction, along with sufficient proof of edu-  
36 cation completion.

37 (3) To receive credit for prelicense real estate courses, a student  
38 must regularly attend and complete the course, and such course must meet all  
39 requirements set forth in section 54-2036, Idaho Code.

40 (4) No credit will be given for courses taken for audit.

41 (5) Credit for completion of approved prelicense education coursework  
42 will not be granted when the content of a course repeats that for which credit  
43 has been previously received.

44 (6) Upon written request from a license applicant, the commission may  
45 waive or modify one (1) or more prelicense course requirements based upon  
46 the applicant's satisfactory completion of similar real estate courses in  
47 Idaho or another state or jurisdiction. The request for waiver shall be ac-  
48 companied by an official transcript from the institution that provided the  
49 course of instruction, along with a description of the subjects covered in

the course and the number of classroom hours involved in the instruction. "Satisfactory completion" means the applicant regularly attended the course and received a final grade of "C" or better.

SECTION 3. That Section 54-2023, Idaho Code, be, and the same is hereby amended to read as follows:

54-2023. CONTINUING EDUCATION REQUIREMENTS. (1) Each licensee applying to renew an Idaho ~~real estate~~ broker or salesperson license on active status, and each Idaho ~~licensee~~ broker or salesperson applying to change from inactive to active license status after having renewed the license on inactive status, shall successfully complete a two (2) commission core courses, ~~plus the required number of twelve (12) classroom hours of commission-approved or certified continuing education coursework as provided in this section.~~ credit. If the inactive licensee is within the initial licensing period, no continuing education is required to change to active license status. Provided that:

~~(1) Required number of classroom hours. The required number of classroom hours is as follows:~~

~~(a) Renewing license on active status. A licensee renewing on active status must successfully complete a commission core course, plus sixteen (16) classroom hours of continuing education, on or before the current license expiration date.~~ Salesperson -- First active renewal or activation. To renew an Idaho salesperson license on active status for the first time, or to change from inactive to active status for the first time after the expiration of the initial license period, a salesperson shall complete two (2) commission core courses, plus the post license course.

~~(b) Change from inactive to active. Unless the licensee is within the initial licensing period, a licensee changing from inactive to active license status shall complete a commission core course, plus sixteen (16) classroom hours of continuing education, before he can change to active license status. If the inactive licensee is within his initial licensing period, no continuing education is required to change to active license status.~~ Inactive broker activating as a designated broker or branch manager. To activate as a designated broker or branch manager, a broker on inactive status shall, in addition to meeting the continuing education requirements of this subsection, have completed a commission-approved business conduct and office operations course within three (3) years immediately prior to the license activation.

~~(e2) Credits used to reactivate license. Continuing education credit hours applied to activate an inactive license are considered "spent" and may not thereafter be applied toward the continuing education requirements for subsequent license renewal.~~

~~(23) No duplicate credit. No licensee may obtain continuing education credit for completing:~~

~~(a) Any core course curriculum for which the licensee has previously received continuing education credit; or~~

~~(b) Any course curriculum for which the licensee has received continuing education credit in the same license period.~~

1       (34) Excess credits. The classroom hours shall apply to the license pe-  
 2       riod in which such course is completed; hours completed in excess of those  
 3       required for the license period shall not accumulate or be credited for the  
 4       purposes of subsequent license renewal periods.

5       (45) Commission-ordered education. No licensee shall obtain contin-  
 6       uing education credit for education ordered by the commission as part of a  
 7       disciplinary action.

8       (56) Obtaining continuing education classroom hours. In order to ob-  
 9       tain continuing education classroom hours, a licensee must:

10       (a) Successfully complete a commission-approved continuing education  
 11       or post license course;

12       (b) ~~Successfully complete a commission-approved continuing education~~  
 13       ~~challenge exam;~~

14       (c) Attend a regularly scheduled meeting of the commission from the  
 15       time the meeting is called to order until the meeting is adjourned or  
 16       until the licensee is excused by the commission chairperson. A maximum  
 17       of four (4) hours for this activity shall be credited for any one (1)  
 18       meeting in any one (1) license period;

19       (d) Successfully complete a commission-approved broker prelicense  
 20       course, ~~or a commission-approved continuing education challenge exam,~~  
 21       ~~in advanced real estate study.~~ Continuing education credit may be  
 22       obtained for retaking the same broker prelicense course ~~or challenge~~  
 23       ~~exam~~ only if completed after three (3) years of completing the previous  
 24       course ~~or challenge exam;~~ or

25       (e) Provide to the commission a transcript or course completion  
 26       certificate of successful completion of any of the following courses  
 27       without commission preapproval of the curriculum, instructors or  
 28       providers:

29       (i) Professional designation courses. Any course developed by  
 30       national professional organizations that is required in order to  
 31       earn professional designations from a national organization in  
 32       specialized areas of licensed real estate practice;

33       (ii) Courses accredited by another profession or jurisdiction.  
 34       Any course approved by and offered in satisfaction of another  
 35       professional or occupational licensing authority's education re-  
 36       quirements, if the commission determines that the course is within  
 37       the approved topic areas established by the commission and if the  
 38       course otherwise meets commission standards for course certifi-  
 39       cation including distance learning and minimum classroom hour  
 40       requirements; or

41       (iii) Courses offered by an accredited college or university. Any  
 42       course offered in satisfaction of a degree requirement by an ac-  
 43       credited college or university if the commission determines that  
 44       the course is within the approved topic areas established by the  
 45       commission.

46       (f) If a certified course instructor, teach a live course for which  
 47       continuing education credit may be obtained. Credits shall be granted  
 48       for the number of classroom hours taught.

49       (67) Licensee duty to keep satisfactory proof. The licensee shall keep  
 50       satisfactory proof of having completed the continuing education requirement

1 and shall submit such proof at the request of the commission as provided in  
2 section 54-2018, Idaho Code.

3 (78) Provisional license -- Extension of time. A three (3) month ex-  
4 tension of time for completing the education requirements may be obtained by  
5 submitting with the renewal application, or application to activate, satis-  
6 factory evidence showing that the applicant was unable to comply with such  
7 education requirements. Such evidence shall be:

8 (a) Bona fide hardship preventing completion of the reinstatement re-  
9 quirements of an inactive license;

10 (b) Health reasons preventing attendance or completion; or

11 (c) Other compelling cause beyond the control of the applicant while  
12 engaged in the real estate business.

13 If such an extension is granted, the licensee shall receive a provisional  
14 license for a period of time not to exceed three (3) months. No further ex-  
15 tension of time may be granted. A license issued or renewed after an exten-  
16 sion of time has been granted shall retain the original license expiration  
17 date. Failure to satisfy the continuing education requirement within the  
18 time granted shall result in the automatic inactivation of the license.

19 SECTION 4. That Section 54-2025, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 54-2025. CERTIFICATION REQUIREMENTS. (1) Certification required.  
22 Except as otherwise provided in section 54-2023(56) (ed), Idaho Code, cer-  
23 tification must be obtained by all course providers, instructors teaching  
24 any course other than a continuing education elective course, and for all  
25 course content in order for the course to be credited toward prelicense or  
26 continuing education requirements in Idaho under this chapter.

27 (2) Courses, instructors and providers monitored. The commission or  
28 its representative may monitor any course for the purpose of course, in-  
29 structor or provider certification.

30 (3) If the commission at any time determines that an instructor, course  
31 or provider is not meeting the requirements for continued commission ap-  
32 proval or certification, written notification detailing the deficiencies  
33 requiring correction shall be made immediately to the appropriate person.  
34 The commission shall take no action to withdraw the certification for thirty  
35 (30) days from the date of the written notice. At the expiration of this  
36 period, if the deficiencies have not been corrected to the commission's sat-  
37 isfaction, the commission may take action to withdraw certification. With-  
38 drawal of certification shall be governed by the Idaho administrative proce-  
39 dure act, chapter 52, title 67, Idaho Code, and the rules of the commission.

40 SECTION 5. That Section 54-2026, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 54-2026. CERTIFICATION OF COURSE PROVIDERS. (1) Degree-granting in-  
43 stitutions. Degree-granting, accredited colleges and universities in any  
44 state or jurisdiction shall be deemed to be approved course providers in  
45 Idaho. However, course content must still be approved for the real estate  
46 education course to receive credit toward prelicense or continuing educa-  
47 tion licensing requirements in Idaho.



(2) Other course providers. All other course providers desiring to offer real estate courses for credit toward Idaho prelicense or continuing education requirements must first meet the following qualifications and receive certification. Each applicant seeking certification as a course provider shall comply with the following:

(a) File an application for certification in the form and manner required by the commission, along with proper fees, at least two (2) months prior to contemplated date of opening or first accredited course offering;

(b) Designate a "director" or "individual in charge," who shall be responsible for the course provider's operation and its real estate courses, and with whom the commission may communicate. Unless this requirement is waived upon special review of the commission in the manner stated below, the individual in charge ~~must~~ shall:

(i) ~~Not~~ have had a real estate or other professional or occupational license suspended or revoked for disciplinary reasons or have been refused a renewal of a license issued by the state of Idaho or any other state or jurisdiction;

(ii) ~~The designated individual in charge must~~ Not have been convicted, issued any fine, placed on probation, received a withheld judgment, or completed any sentence of confinement for or on account of any felony or a misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing in a court of proper jurisdiction; and

(iii) Have attended a commission-approved provider training within the two (2) years immediately preceding the designation.

The failure of the provider to have in place a designated individual meeting the qualifications required by this subsection shall be grounds for the commission to withdraw or cancel the provider's certificate as provided in section 54-2025(3), Idaho Code;

(c) File a properly executed "irrevocable consent to service of process" in the manner and form prescribed by the commission and in substantial accordance with section 54-2012(1)(k), Idaho Code. The commission, in its discretion, may make such additional investigation and inquiry relative to the applicant for provider certification as it deems advisable and, if good cause exists, may deny or accept the application for certification.

SECTION 6. That Section 54-2028, Idaho Code, be, and the same is hereby amended to read as follows:

54-2028. TERM OF PROVIDER CERTIFICATION AND RENEWAL. (1) Each course provider's certification issued by the commission shall be for a term of two (2) years. The exact expiration date will be shown on the provider certificate.

(2) In order to maintain certification, each provider ~~must~~ shall:

(a) ~~Return~~ a properly completed renewal application on a form provided by the commission, along with all necessary attachments and renewal fees to the commission office prior to the expiration date for commission approval; and

1       (b) Certify that its designated director or person in charge has,  
 2       within the past two (2) years, attended a commission-approved provider  
 3       training.

4       (3) Recertification is not effective until the commission has formally  
 5 approved the application for renewal.

6       (4) Failure to obtain approved renewal of certification prior to its  
 7 expiration date will result in no credit being given for courses not yet suc-  
 8 cessfully completed by the expiration date.

9       SECTION 7. That Section 54-2059, Idaho Code, be, and the same is hereby  
 10 amended to read as follows:

11       54-2059. DISCIPLINARY POWERS -- REVOCATION, SUSPENSION OR OTHER DIS-  
 12 CIPLINARY ACTION. (1) The commission may temporarily suspend or permanently  
 13 revoke licenses issued under the provisions of this chapter, issue a formal  
 14 reprimand and impose a civil penalty in an amount not to exceed five thousand  
 15 dollars (\$5,000), and assess costs and attorney's fees for the cost of any  
 16 investigation and administrative or other proceedings against any licensee  
 17 who is found to have violated any section of the Idaho Code, the commission's  
 18 administrative rules or any order of the commission. The executive director  
 19 may issue informal letters of reprimand to licensees without civil penalty  
 20 or cost assessment.

21       The commission may impose a civil penalty in an amount not to exceed five  
 22 thousand dollars (\$5,000) and assess costs and attorney's fees for the cost  
 23 of any investigation and administrative or other proceedings against any  
 24 person who is found, through a court or administrative proceeding, to have  
 25 acted without a license in violation of section 54-2002, Idaho Code. The  
 26 civil penalty provisions of this section are in addition to and not in lieu of  
 27 any other actions or criminal penalties for acting as a broker or salesperson  
 28 without a license which might be imposed by other sections of this chapter or  
 29 Idaho law.

30       The commission may also accept, on such conditions as it may prescribe,  
 31 or reject any offer to voluntarily terminate the license of a person whose  
 32 activity is under investigation or against whom a formal complaint has been  
 33 filed.

34       (2) If the commission suspends or revokes a license, or imposes a civil  
 35 penalty, or assesses costs and attorney's fees, the commission may withhold  
 36 execution of the suspension, revocation or civil penalty, or costs and at-  
 37 torney's fees on such terms and for such time as it may prescribe.

38       (3) If any amounts assessed against a defendant by final order of the  
 39 commission become otherwise uncollectible or payment is in default, and only  
 40 if all the defendant's rights to appeal have passed, the commission may then  
 41 proceed to district court and seek to enforce collection through judgment  
 42 and execution.

43       (4) All civil penalties, costs, and attorney's fees collected by the  
 44 commission under this chapter shall be deposited in the state treasury to the  
 45 credit of the special real estate fund established by section 54-2021, Idaho  
 46 Code. Any amounts of civil penalties so collected, deposited and credited  
 47 shall be expended for exclusive use in developing and delivering Idaho real  
 48 estate education ~~to benefit Idaho real estate licensees.~~